IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21199 of 2004

Between:

N. Venkata Ramana Chary, S/o. Rama Chary, Clerk Grade-III.
NASPUR Dispensary, The Singa Reni Colleries Company Ltd.,
Sri Rampur (SRP) Area, Manchiryal, Adialabad District.

..... PETITIONER

AND

1 The Singareni Collieries Company Ltd., rep. by its General Manager (Personnel), Kothagudem, Karemanagar District.
2 The Chief General Manager (CDM)/CIE, Singareni Collieries Company Ltd., Kothagudem, Karimnagar District.
3 The Medical Superintendent (Admn.), Sri Rampur (SRP) Area, Manchiryal, Adilabad District
4 The General Manager (Personnel), Sri Rampur (SRP) Area, the S.C. com. Ltd., Manchiryal, Adilabad District
RR 3&4 impleaded as per court order dt. 21-12-2004 in WPMP 29438 of 2004

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an order or direction more in the nature of writ of Mandamus to declare the action of the 1st respondent in reverting the petitioner from the post of Clerk Grade-III to General Mazdoor vide impugned REf.No.CRP/PER/PM/3208/1761, Dt. 23.9.2004 of the 1st respondent as illegal, unjust and arbitrary and violative of Articles 14 and 16 of Constitution of India and consequently set aside the same and further direct the 1st respondent to continue the petitioner as Clerk Grade-III as per his eligibility and suitability to hold the post of clerk Grade-III.

Counsel for the Petitioner: MR. POODATTU AMARENDER

Counsel for the Respondents : MR.NANDIGAM KRISHANA RAO

The Court at the admission stage made the following:

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 21199 of 2004

O R D E R:

Challenging the proceedings in Ref.No. CRP/PER/PM/3208/1761 dated 23.9.2004 of the 1st respondent in reverting the petitioner from the post of Clerk Grade-III to General Mazdoor, the present writ petition is filed.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

The petitioner was initially appointed as Badali Worker in the year 1992 under the control of the respondents and he was appointed to the post of Coal Filter in the year 1984. Thereafter he was promoted as General Mazdoor, Grade-II. Later he was appointed as Clerk Grade-III as per the orders of the 1st respondent dated 22.10.1999 w.e.f. 8.11.1999. Prior to his appointment as Clerk Grade-III a memorandum of settlement was arrived between Management i.e. 1st respondent herein and their workmen, represented by 6 recognised unions of the Singareni Collieries under Section 12(3) of the I.D. Act before the Assistant Commissioner of Labour (Central) - I, Hyderabad. The respondents have accepted various demands including the demand of regularization of all the acting clerks, drivers, mining staff and other workers. Accordingly a selection was conducted by the respondents and after being successful in the

selection process the petitioner was appointed to the post of Clerk Grade-III. As per the settlement, the qualification prescribed for the post of Clerk Grade-III is Intermediate/SSC/Matriculation besides that one should have acted as Clerk continuously for not less than 3 years as on 3.10.1996. In the year 1975 he obtained certificate in English Typewriting Lower from the State Board of Technical Education and Training through Sri Raghuveer Typewriting & Shorthand Institute. He was not aware whether the certificate is genuine or not. At no point of time there were any doubts regarding his technical education certificate as it was given to him in the year 1975. Though the said qualification is not relevant for the purpose of his appointment as Clerk Grade-III, he has mentioned it as an additional qualification. There upon the 1st respondent issued a notice dated 23.2.2004 calling for explanation on the ground that the typewriting certificate produced by him was found to be a fake certificate when it was referred to State Board of Technical Education for enquiry. The petitioner gave explanation dated 2.3.2004 stating that the Sri Raghuveer Typewriting Institute, Nizamabad issued a pass certificate to him after the examination conducted by the Board of Technical Eduction and Training and he is in no way concerned with the certificate issued by the Principal of the Institute in the year 1975. There upon the impugned proceedings have been passed reverting him from Clerk Grade-III to General Mazdoor. Therefore the impugned proceedings are illegal and arbitrary and contrary to the memorandum of settlement arrived at on 5.7.1999. Hence the present writ petition.

The respondents filed counter stating that the petitioner is a workman. He has to avail the alternative remedy available under the Industrial Disputes Act and therefore the writ petition is not maintainable. The petitioner was regularized as per the terms of MOS dated 31.7.1997 and 5.7.1999. For the said post, the qualification prescribed is as follows:

a. Graduates without Typewriting;

b. Non-graduates i.e. SSC or Matriculation or Intermediate.

The promotion post for the Clerk Grade-III is Clerk Grade-II and the qualification prescribed is Graduates with Typewriting Lower Grade (English) qualification subject to assessment report. Asfar as the petitioner is concerned, he is only an intermediate and he applied for the post of Clerk Grade-III enclosing a typewriting certificate. Actually for the post of Clerk Grade-III typewriting qualification is not necessary but it will be of help only while considering the case of the petitioner for promotion to Clerk Grade-II. Keeping this option in mind, the petitioner has submitted his typewriting qualification. After calling for the explanation and considering the same, the impugned orders have been passed. One cannot approbate or reprobate with a view to earn future promotions. The qualifications though not required were furnished by the petitioner and it is not open for the petitioner to contend that the certificate is not required yet it is submitted. Though it is a serious lapse, as it appears that the petitioner for the first time committed this misconduct a lighter punishment of reversion was imposed. Hence the respondents pray to dismiss the writ petition.

Learned counsel for the petitioner vehemently contended that for the post of Grade-III the typewriting lower grade in English is not a qualification as per the settlement entered in between the Management and the Unions. Such is the case, the petitioner cannot be reverted for no fault of him and therefore the impugned order suffers from serious legal infirmities.

On the other hand, learned standing counsel for the respondents contended that the post of Clerk Grade-III is a responsible post in which lot of confidence and trust are reposed by the Management. The conduct of the petitioner can be inferred from submitting a fake certificate though not asked for and hence he was rightly reverted to his substantive post and there are no grounds to interfere with the impugned order.

As seen from the impugned proceedings dated 23.9.2004, the petitioner was reverted as General Mazdoor, which is a substantive post, with immediate effect. The main reason for reverting him is for production of a fake or bogus certificate of English typewriting lower grade. There is no dispute that as per the settlement in between the Management and the recognized unions for promotion to the post of Clerk Grade-III the minimum qualification for non-graduates is Intermediate/SSC/Matriculation subject to assessment report and interview. Though it is not necessary for submitting lower grade typewriting certificate, the petitioner submitted the same. The appointment order dated 22.10.1999 clearly states that in case the information regarding the qualification, age etc. is found to be incorrect or false or suppressed anytime, the petitioner can be reverted to his substantive post without assigning any reasons and without notice apart from taking disciplinary action as per company standing orders. The certificate in English typewriting lower grade of March, 1976 was referred to the Secretary, State Board of Technical Education and Training, A.P., Hyderabad. The Secretary has informed that the memo of marks submitted for Typewriting English Lower of March, 1976 with Regd No.33408 is a fake one. The petitioner appeared for the examination but failed as he secured only 30 and 16 marks in Paper-I and Paper-II respectively. As per the certificate produced by the petitioner, he secured 60 and 55 marks in typewriting paper-I and paper-II. The contention that he has no knowledge about obtaining the certificate from the Institute from where he appeared for the examination cannot be accepted. The services of the petitioner are directly governed by the appointment order. In the appointment order itself it is made clear that in case his age, qualification etc. are found to be incorrect and false, he will be reverted to the substantive post. According to the respondents, the nature of job of Clerk Grade-III is a responsible post in which confidence and trust are reposed by the Management. The petitioner might have submitted the copy of typewriting qualification though it is not required for promotion to Clerk Grade-III, keeping in view the fact that it is a qualification for promotion to Clerk Grade-II.

Therefore, the petitioner cannot be permitted to contend that the typewriting qualification is not required as per the settlement. Though it is not required, for obvious reason the petitioner might have submitted the same. In the explanation except stating that he was not aware of the fake certificate and that the mistake is committed without any wrong intention to cheat the company but it is due to somebody's ill-design, the petitioner did not give any proper explanation. Since the petitioner himself produced a certificate which was found to be a fake one, it can be inferred that he must be having knowledge because he failed in two papers where the marks are far below the marks as mentioned in the pass certificate.

The impugned proceedings are completely in accordance with the terms and conditions of the appointment order which do not suffer from any legal infirmities so as to call for interference by this court.

The writ petition is totally devoid of merit and it is accordingly dismissed.

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K.C. Bhanu, J.

Date: --02—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The General Manager, Singareni Collieries Company Ltd., (Personnel),

Kothagudem, Karemanagar District.
2. The Chief General Manager (CDM)/CIE, Singareni Collieries Company Ltd., Kothagudem, Karimnagar District.
3. The Medical Superintendent (Admn.), Sri Rampur (SRP) Area, Manchiryal, Adilabad District
4. The General Manager (Personnel), Sri Rampur (SRP) Area, the S.C. com. Ltd., Manchiryal, Adilabad District

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